

NEW JERSEY DIVISION OF TAXATION

TECHNICAL BULLETIN

TB-16(R)

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TAX: SPILL COMPENSATION AND CONTROL TAX

TOPIC: GUIDELINES

The Spill Compensation and Control Act, N.J.S.A. 58:10-23.11, et seq., was enacted to protect the citizens of New Jersey from the adverse effects of environmental mishaps which may result from spills of petroleum products or other hazardous substances. The Act authorizes the State to levy a tax on the transfer of hazardous substances. The monies generated by the tax are credited to the New Jersey Spill Compensation Fund within the Department of Environmental Protection. This Fund was established by the Legislature to insure compensation for cleanup costs and damages when spills occur.

Imposition of Tax

The Spill Compensation and Control Tax is imposed on the transfer of petroleum products and other "hazardous substances," as defined by the New Jersey Department of Environmental Protection, within the jurisdiction (lands and waters) of New Jersey. Transfers of hazardous substances other than petroleum products which are, or contain, any precious metals to be recycled, refined, or rerefined in New Jersey, or which are transferred into New Jersey subsequent to being recycled, refined or rerefined, are also subject to the Spill Tax. "Precious metals" means gold, silver, osmium, platinum, palladium, iridium, rhodium, ruthenium and copper.

The Act provides that hazardous substances be taxed only once, at the point of the first transfer. Each subsequent transfer is regarded as a "secondary transfer" and, as such, is exempt from further taxation. For secondary and later transfers of the same hazardous substance, or any product derived therefrom, the transferor must provide the transferee with a properly completed Secondary Transfer Certificate (**Form SCC-2**) as documentation that the tax has been paid.

The tax is payable by:

- a. The owner or operator of a major facility (as defined below) which receives a transfer of a hazardous substance;
- b. The owner of a hazardous substance which is transferred to a major facility operating as a public storage terminal (Prior to January 18, 1979, the owner or operator of the public storage terminal, rather than the owner of the hazardous substance, was liable for the tax); or
- c. The owner or operator of a New Jersey major facility which transfers a previously untaxed nonpetroleum hazardous substance to a nonmajor facility.

A "major facility" is any structure, including, but not limited to, any refinery, storage or transfer terminal, pipeline, deep-water port, or drilling platform that is used to refine, produce, store, handle, transfer, process or transport hazardous substances, and which has a total combined storage capacity of 200,000 gallons or more for hazardous substances of all kinds, including petroleum products, or 20,000 gallons or more for nonpetroleum hazardous substances.

All buildings, plants, factories and complexes, including manufacturing facilities and distribution facilities, involved in the petrochemical industry would be major facilities if they handle hazardous substances and meet or exceed the required hazardous substance storage capacity.

A "public storage terminal" is a public or privately owned major facility operated for public use which is used for the storage or transfer of hazardous substances owned by others.

Registration and Filing Requirements

All major facilities and owners of hazardous substances stored at a public storage terminal must register with the New Jersey Division of Taxation and file tax returns. An Application for Registration (**Form SCC-1**) must be completed and filed within 20 days of receiving any taxable transfer of a hazardous substance.

All registrants must file a Spill Compensation and Control Tax Return (**Form SCC-5**) on or before the 20th of each month for the preceding month's hazardous substance transfers, regardless of whether a tax liability has been incurred for the month.

A public storage terminal must file a Public Storage Terminal Informational Tax Return (**Form SCC-6**) on or before the 20th of each month. This return indicates the number of barrels of hazardous substances received by the facility during the previous month and the owner(s) of such substances.

Tax Rates

The tax rates for all taxable hazardous substance transfers are:

- (1) Nonpetroleum hazardous substances – 1.53% of fair market value;
- (2) Petroleum products - \$0.023 per barrel;
- (3) Precious metals - \$0.023 per barrel;
- (4) Elemental phosphorus - \$0.023 per barrel; and
- (5) Elemental antimony or antimony trioxide - \$0.023 per barrel, with annual approval.

Capped Tax Payments

Any owner or operator of a major facility that was subject to the Spill Compensation and Control Tax in 1986 and made tax payments in 1986, and certain of their successors in interest to such major facilities, should request a copy of the "Spill Tax Cap Guidelines" to determine if, and to what extent, the cap on annual tax payments provided for under N.J.S.A. 58:10-23.11h.b.(1)(a) of the Spill Compensation and Control Act applies to them.

Forms and Information

Inquiries may be directed to the Audit Services Branch at 609-984-7171 or in writing to the NJ Division of Taxation, Audit Services Branch, PO Box 189, Trenton, NJ 08695-0189. Many State tax forms and publications are now available, both by fax and through the World Wide Web. Call NJ TaxFax at 609-826-4500 from your fax machine's phone, or access the Division's home page from your computer at:

<http://www.state.nj.us/treasury/taxation/prntspil.htm>

The **List of Hazardous Substances** for Spill Tax purposes, as adopted by the New Jersey Department of Environmental Protection, is also available on request.